UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/52/424
3 October 1997
ENGLISH
ORIGINAL: RUSSIAN

Fifty-second session
Agenda items 38, 39, 97, 98 and 99

SUPPORT BY THE UNITED NATIONS SYSTEM OF THE EFFORTS OF GOVERNMENTS TO PROMOTE AND CONSOLIDATE NEW OR RESTORED DEMOCRACIES

OCEANS AND THE LAW OF THE SEA

SUSTAINABLE DEVELOPMENT AND INTERNATIONAL ECONOMIC COOPERATION

ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

OPERATIONAL ACTIVITIES FOR DEVELOPMENT

Letter dated 1 October 1997 from the Permanent Representative of Kazakhstan to the United Nations addressed to the Secretary-General

I have the honour to transmit to you the text of a letter dated 25 September 1997 from the Minister for Foreign Affairs of Kazakhstan making reference to the letter of 3 September 1997 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations (A/52/324) and explaining the position of Kazakhstan on the legal status of the Caspian Sea (see annex).

I should be grateful if you would have the text of this letter and its annex circulated as a document of the General Assembly under agenda items 38, 39, 97, 98 and 99.

(Signed) Akhmaral Kh. ARYSTANBEKOVA
Ambassador
Permanent Representative of Kazakhstan
to the United Nations

ANNEX

Letter dated 25 September 1997 from the Minister for Foreign Affairs of the Republic of Kazakhstan addressed to the Secretary-General

As you are aware, on 8 September 1997 a statement by the Islamic Republic of Iran, setting out the Islamic Republic's position on the status of the Caspian Sea, was circulated as an official document of the United Nations (A/52/324).

In this connection I should like to draw your attention to the following:

Paragraph 1 of the joint statement on issues relating to the Caspian Sea, signed by the Presidents of Kazakhstan and Turkmenistan on 27 February 1997, reads as follows:

> "The parties consider that the elaboration and conclusion of a convention on the legal status of the Caspian Sea is an urgent priority task. Until the Caspian States reach an agreement on the status of the Caspian Sea, the parties will adhere to the delimitation of administrative and territorial borders along a line running through the middle of the Sea."

This means that any use of the Caspian Sea will take place within the demarcation zones established during the existence of the former USSR when, in 1970, the Soviet part of the Caspian Sea was divided into sectors by the Union Ministry of the Petroleum Industry between Kazakhstan, Azerbaijan, the Russian Soviet Federative Socialist Republic and Turkmenistan using the median-line method adopted in international practice.

As you know, following the collapse of the USSR the former administrative and territorial borders that used to divide the Union Republics were reciprocally recognized as the State borders between the newly independent States.

Kazakhstan is making considerable efforts to ensure the prompt settlement of the legal status of the Caspian Sea and the conclusion of a convention based on consensus among the Caspian States.

Allow me to take this opportunity to draw your attention to a statement of the official position of Kazakhstan on establishing the legal status of the Caspian Sea. I should be grateful if you would have the text of this letter and its annex circulated as a document of the General Assembly.

(Signed) Kasymjomart TOKAEV

APPENDIX

Position of Kazakhstan on the legal status of the Caspian Sea

The current status of the Caspian Sea was established (not comprehensively) by the Treaty between the Russian Soviet Federative Socialist Republic and Iran (Persia) of 26 February 1921 and the Treaty between the Union of Soviet Socialist Republics and Iran of 25 March 1940, under which the Caspian Sea was divided between the USSR and Iran along the Astara-Gasan-Kuli line. These treaties are not in keeping with current state of affairs and cannot serve as legal instruments governing relations on a mutually advantageous basis and in a comprehensive manner among the States that border the Caspian Sea. Therefore, it is doubtful that any reference to these treaties can be considered to be sufficiently valid for the following reasons:

(a) The Parties to the aforementioned treaties were the Russian Soviet Federative Socialist Republic and the USSR, which no longer exist as subjects of international law. Therefore, the legal status of the Caspian Sea must be established and consolidated in a new treaty among the Caspian Sea States;

(b) The aforementioned treaties contained no reference to the borders between the former Union Republics bordering the Caspian Sea since, under Soviet law, questions pertaining to the border regime fell exclusively under federal jurisdiction.

Consequently, there were no borders between the Union Republics on the Caspian Sea, since the part of the Sea belonging to the former USSR was federal, and the Republics, which included the Russian Soviet Federative Socialist Republic, had no competence to consider questions relating to the delimitation of the Caspian Sea;

(c) The aforementioned treaties govern only questions relating to merchant shipping and fishing; they do not establish the legal status of the Caspian as a whole, which includes questions of the use of the continental shelf and exclusive economic zone, because the legal definition of the term "continental shelf" first appeared in the Geneva Convention on the Continental Shelf of 1958, and the legal definition of the term "exclusive economic zone" first appeared in the United Nations Convention on the Law of the Sea of 1982.

Kazakhstan's position is that individual provisions of the United Nations Convention on the Law of the Sea of 1982 should be extended to the Caspian Sea and applied taking into account the specific features of the Caspian.

We propose that the seabed and its resources be delimited among all Caspian States along a median line, as is usual in international practice, and in accordance with existing international methods. Each Caspian State must independently carry out the exploration and exploitation of mineral resources in its economic zone.

The oil companies of Caspian States can participate in the development of the mineral resources in the exclusive economic zone of another State on common

terms. This situation should not affect existing consortiums. The exploitation of deposits situated within the economic zones of two or more Caspian States should be the subject of agreements on the division of the output among the relevant States.

In the areas of navigation, fishing and environmental cooperation, the broadest compromises are possible.

The territorial waters and fishing zones under the national jurisdiction of each Caspian State should be of the agreed width. The remaining part of the Sea and its surface should be open to free navigation of ships of the littoral States. The airspace above the Sea should also be open to aircraft flying along agreed routes. Fishing and the use of other biological resources should be carried out in the respective fishing zones and also by setting quotas and issuing licences for fishing activities.

Landlocked Caspian States should be entitled to use Russian waterways on the basis of separate agreements with the Russian Federation in order to have an outlet to other seas and oceans.

Kazakhstan's draft convention on the legal status of the Caspian Sea draws not only on international norms and experience in exploiting mineral resources situated on the seabed of bordering reservoirs but also on the activities of the USSR and Iran in developing the resources of the Caspian seabed.

We are deeply convinced that such an approach will increase the responsibility of each littoral State for the consequences of activities in its own sector; make possible the effective legal regulation of the use of marine resources on the basis of national legislation; make it easier to attract foreign investment to the region, which in turn will contribute to the region's economic growth; and minimize the likelihood of disputes among States concerning specific deposits in the Caspian Sea.

Kazakhstan is prepared to cooperate with the other Caspian States in developing the resources of its sector. The forms of participation can be extremely diverse.

Kazakhstan is making considerable efforts to ensure the prompt settlement of the legal status of the Caspian Sea and the conclusion of a convention based on consensus among the Caspian States.